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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,019	08/22/2001	Gregory J. Linden	P-9611	9188

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MEDTRONIC, INC.
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MINNEAPOLIS, MN 55432-9924

EXAMINER

COBANOGU, DILEK B

ART UNIT	PAPER NUMBER
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3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/935,019	Applicant(s) LINDEN ET AL.	
	Examiner Dilek B. Cobanoglu	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/03/2001, 04/07/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the Request for Continued Examination (RCE) received on 1/11/2007.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-3 drawn to an internet-based method for a service to chronically connect a person to a database network, classified in class 707, subclass 9.
 - II. Claims 4-10, drawn to an internet-based method for a service to enable a person to access a secure web-site to respond to a notification, classified in class 709, subclass 206.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as database or file privileged accessing, invention II has separate utility such as multicomputer data transferring/demand based messaging. See MPEP § 806.05(d).
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. During a telephone conversation with Daniel G. Chapik on 02/20/2007 a provisional election was made with traverse to prosecute the invention of Group II,

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claims 4-10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-3 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

6. Claim 7 is objected to because of the following informalities: Claim 7 is a dependent claim, and the claim states "the method according to claim 7, wherein...". Claim 7 cannot be dependent on itself. Examiner considers that claim 7 is depending on independent claim 6. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. Claim 1 is rejected under 35 U.S.C. 102(a) as being unpatentable by Bardy (U.S. Patent No. 6,270,457 B1).

A. As per claim 4, Bardy discloses an internet-based method for a service to enable a medical practitioner to access a secure web-site to respond to a notification of an event relating to a remote patient having an implanted medical device, the method comprising:

- i. Receiving data indicative of the event from the implanted medical device (Bardy; abstract, col.3, lines 47-57); alerting the medical practitioner to the event using an event service (Bardy; col.10, lines 5-26, col. 15, lines 48-53); and
- ii. enabling the medical practitioner to execute secure access to the patient's database in a single sign-on action (Bardy; col.8, lines 28-33, col. 15, lines 48-53).

Examiner considers that reading an e-mail requires a single sign-on action.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardy (U.S. Patent No. 6,270,457 B1) in view of de la Huerga et al. (hereinafter de la Huerga) (U.S. Patent No. 5,903,889).

A. As per claim 5, Bardy discloses the method of claim 4.

Bardy fails to expressly teach the authentication to a foreign web-site that is passed over to access the secure patient database. However, this feature is well known in the art, as evidenced by de la Huerga.

In particular, de la Huerga discloses the authentication to a foreign web-site that is passed over to access the secure patient database (de la Huerga; col. 3, line 55 to col. 4, line 5).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by de la Huerga with the motivation of linking reports together as appropriate, so that care givers may more quickly and directly refer to relevant or related information (de la Huerga; col. 4, lines 10-13).

B. As per claim 6, Bardy discloses an internet-based method for a service to enable a physician to access a rendered page about conditions of a patient generated at least in part from data collected from an implanted medical device within the patient, the method comprising:

- i. alerting the physician about the patient's condition (Bardy; col.10, lines 5-26, col. 15, lines 48-53); and
- ii. allowing the physician to access a patient's database (Bardy; col.14, lines 13-42) and

Bardy fails to expressly teach wirelessly pull up a page so that the physician's receipt of a report summarizing the patient's condition is confirmed. However, this feature is well known in the art, as evidenced by de la Huerga.

In particular, de la Huerga discloses wirelessly pull up a page so that the physician's receipt of a report summarizing the patient's condition is confirmed (de la Huerga; col. 3, line 55 to col. 4, line 5). It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by de la Huerga with the motivation of linking reports together as appropriate, so that care givers may more quickly and directly refer to relevant or related information (de la Huerga; col. 4, lines 10-13).

C. As per claim 7, Bardy discloses the method according to claim 6 wherein a patient management network includes the ability to push out the fully rendered page containing patient information and device information to wireless devices (Bardy; col. 6, line 61 to col. 7, line 4, col. 7, lines 53-59).

Bardy fails to expressly teach a website page display. However, this feature is well known in the art, as evidenced by de la Huerga. In particular, de la Huerga discloses a website page display (de la Huerga; col. 4, lines 55-59).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by de la Huerga with the motivation of linking reports together as appropriate, so that care givers may more quickly and

directly refer to relevant or related information (de la Huerga; col. 4, lines 10-13).

D. As per claim 9, Bardy discloses the method according to claim 6 wherein the physician can transcribe a voice message back to the patient and can optionally copy the message to other professionals (Bardy; col.10, lines 5-26).

E. As per claim 10, Bardy discloses the method according to claim 9 wherein the patient is notified about the physician's message upon the patient's home connect receiving the message (Bardy; col.10, lines 5-26).

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bardy (U.S. Patent No. 6,270,457 B1) and Huerga et al. (hereinafter de la Huerga) (U.S. Patent No. 5,903,889) further in view of Barry et al. (hereinafter Barry) (U.S. Patent No. 6,081,786).

A. As per claim 8, Bardy and de la Huerga disclose the method according to claim 6.

Bardy and de la Huerga fail to expressly teach the Microsoft pocket PC technology. However, this feature is well known in the art, as evidenced by Barry.

In particular, Barry discloses the Microsoft pocket PC technology (Barry; col.9, lines 12-15).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as

disclosed by Barry with the motivation of servers run the most recent version of knowledge base (Barry; col. 9, lines 15-17).

Response to Arguments

12. Applicant's arguments with respect to claims 4-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used prior art teach World wide patient location and data telemetry system for implantable medical devices 5752976 A, Method and system aiding medical diagnosis and treatment 5974124 A, Computer implemented patient medication review system and process for the managed care, health care and/or pharmacy industry 6014631 A, Implantable medical device for tracking patient functional status 6045513 A, World wide patient location and data telemetry system for implantable medical devices 6083248 A, Distributed network system for use with implantable medical devices 6249705 B1, World wide patient location and data telemetry system for implantable medical devices 6292698 B1, Portable remote patient telemonitoring system 6416471 B1, Medical network system and method for transfer of information.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

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15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

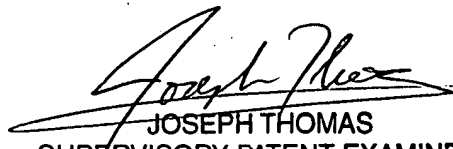
16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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02/22/2007


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER